



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

TRAVIS MORGAN,

Plaintiff,

v.

NANCY BERRYHILL, Acting  
Commissioner, SOCIAL SECURITY  
ADMINISTRATION,

Defendant.

Case No.: 17cv2227-LAB(KSC)

**ORDER DENYING PLAINTIFF'S  
"NOTICE OF DEFENDANT'S  
DECEPTIVE ACTIONS AND  
REQUEST [FOR] ENFORCEMENT,"  
CONSTRUED AS A MOTION TO  
COMPEL DISCOVERY AND A  
MOTION FOR DISCOVERY  
SANCTIONS**

**[Doc. No. 23.]**

Plaintiff Travis Morgan, proceeding *pro se* and *in forma pauperis*, filed this action under the Freedom of Information Act ("FOIA") seeking an order compelling disclosure of administrative records by the Social Security Administration ("SSA"). [Doc. Nos. 1, 6, 8.] Before the Court is a document filed by plaintiff which is entitled "Notice of Defendant's Deceptive Actions and Request [for] Enforcement." [Doc. No. 23.] In this

1 Notice, plaintiff complains that he received a deceptive or confusing response to FOIA  
 2 Request No. SSA-2017-001116. [Doc. No. 23, at 1.] As a result, he requests that the  
 3 Court compel defendant SSA to provide him with a “proper” response to his FOIA  
 4 request and impose sanctions against the SSA. [Doc. No. 23, at p. 1.]

5 Plaintiff cites no legal basis for the relief he requests. Although the basis of  
 6 plaintiff’s request for relief is unclear, the Court construes his Notice as a Motion to  
 7 Compel Discovery under Federal Rule of Civil Procedure 37(a)(3)(B) and a Motion for  
 8 Discovery Sanctions under Federal Rule of Civil Procedure 37(a)(5).<sup>1</sup> Under Rule  
 9 37(a)(3)(B), “[a] party seeking discovery may move for an order compelling an answer,  
 10 designation, production, or inspection,” but only if a party fails to respond to formal  
 11 discovery requests under the Federal Rules of Civil Procedure. Fed.R.Civ.P.  
 12 37(a)(3)(B)(i)-(iv). If the Court grants such a motion, it may impose sanctions under  
 13 certain circumstances. Fed.R.Civ.P. 37(a)(5)(A)(i)-(iii).

14 Discovery in FOIA cases “is limited because the underlying case revolves around  
 15 the propriety of revealing certain documents.” *Lane v. Department of Interior*, 523 F.3d  
 16 1128, 1134 (9<sup>th</sup> Cir. 2008). Courts may deny or delay requests for discovery in a FOIA  
 17 case, if the plaintiff seeks “the very information that is the subject of the FOIA  
 18 complaint.” *Id.*

19 Based on the record, the Court finds that plaintiff is not entitled to an order  
 20 compelling defendant SSA to produce any discovery addressing its response to FOIA  
 21 Request No. SSA-2017-001116. To the extent plaintiff wished to clarify confusing or  
 22 “deceptive” information provided by defendant in response to his FOIA request [Doc.  
 23 No. 23, at 1], he could have served defendant with a formal discovery request as  
 24 permitted in Federal Rules of Civil Procedure 26, 30, 31, 33, or 34. It appears he could  
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 27 <sup>1</sup> “A document filed *pro se* is ‘to be liberally construed,’ and ‘a *pro se* complaint,  
 28 however inartfully pleaded, must be held to less stringent standards than formal pleadings  
 drafted by lawyers. . . .” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

1 have done so without exceeding the limitations set forth by the Ninth Circuit in *Lane v.*  
2 *Department of Interior*, 523 F.3d at 1134. However, there is nothing to indicate plaintiff  
3 ever served defendant with a formal discovery request in this case. As a result, the Court  
4 finds that plaintiff is not entitled to an order compelling defendant to clarify its response  
5 to FOIA Request No. SSA-2017-001116.

6 The Court also finds there is no basis for the imposition of discovery sanctions  
7 against defendant SSA under Rule 37. Under the circumstances presented, it would be  
8 “unjust” for the Court to impose any sanctions against defendant SSA. Fed.R.Civ.P.  
9 37(a)(5)(A)(iii).

10 As noted above, the Court has construed plaintiff’s “Notice of Defendant’s  
11 Deceptive Actions and Request [for] Enforcement” as a Motion to Compel Discovery and  
12 a Motion for Discovery Sanctions. Based on the foregoing, IT IS HEREBY ORDERED  
13 that these Motions are DENIED. [Doc. No. 23.]

14 IT IS SO ORDERED.

15 Dated: February 12, 2019

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17 Hon. Karen S. Crawford  
18 United States Magistrate Judge  
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